

## REMARKS

Reconsideration of this application as amended is respectfully requested.

In the Office Action, claims 1, 4-10, 13-20, 22, 23 and 25-30 were pending and rejected. In this response, no claim has been canceled. Claims 1, 10, and 20 have been amended.

Claims 10 and 13-19 are rejected under 35 U.S.C. § 112, second paragraph. In view of the foregoing amendments, it is respectfully submitted that the rejections have been overcome.

Claims 1, 4-10, 13-20, 22, 23 and 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi, U.S. Patent No. 5,396,631 (“Hayashi”) in view of Buzbee, U.S. Patent No. 5,815,720 (“Buzbee”) and further in view of Granston, U.S. Patent No. 5,966,538 (“Granston”). In view of the foregoing amendments, it is respectfully submitted that claims 1, 4-10, 13-20, 22, 23 and 25-30 as amended include limitations that are not disclosed by the cited references, independently or in combination.

Specifically, independent claim 1 requires an initialization routine and a measuring routine provided by a user as additional source code in addition to a source language routine to be optimized. The initialization and measuring routines are compiled, linked and launched as a single application. The initialization and measuring routines are called from the intermediate language routine generated from the source language routine for the purposes of initialization and measuring of the source language routine. It is respectfully submitted that the above limitations are absent from the cited references, independently or in combination.

Although the Examiner acknowledged that Hayashi fails to disclose the above limitations, the Examiner maintained that section of col. 5, line 66 to col. 6, line 3 of Buzbee discloses specifying an initial value by calling an initialization routine (see 2/23/2005 Office

Action, page 5). Applicant respectfully disagrees. The cited section of Buzbee discloses that a user may add additional annotation into the object code in order to generate additional profile information. That is, the annotations are added into the objected code.

It is respectfully submitted that the annotations are not routines callable from the intermediate language routine. Specifically, the annotations added are not routines provided as additional source code, which can be compiled, linked, and launched as a single application as the source language routine to be optimized as recited in claim 1.

Similarly, Granston fails to disclose measuring a characteristic of a source language routine by calling a measuring routine provided by a user as additional source code and compiled, linked, and launched with the source language routine as a single application as set forth above. Rather, contrary to the Examiner's interpretation (see 2/23/2005 Office Action, pages 5-6), Granston discloses using profile information to determine which compiler options should be used (see, col. 4, lines 34 to 48 of Granston).

In addition, there is no suggestion within the cited references to combine with each other. Even if they were combined, such a combination still lacks the limitations set forth above. Therefore, for the reasons set forth above, it is respectfully submitted that independent claim 1 is patentable over the cited references.

Similarly, independent claims 10 and 20 include limitations similar to those recited in claim 1. Thus, for the reasons similar to those set forth above, it is respectfully submitted that claims 10 and 20 are patentable over the cited references.

Given that the rest of the claims depend from one of the above independent claims, at least for the reasons discussed above, it is respectfully submitted that the rest of the claims are patentable over the cited references. Withdrawal of the rejections is respectfully requested.

In view of the foregoing, Applicant respectfully submits the present application is now in condition for allowance. If the Examiner believes a telephone conference would expedite

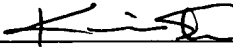
or assist in the allowance of the present application, the Examiner is invited to call the undersigned attorney at (408) 720-8300.

Please charge Deposit Account No. 02-2666 for any shortage of fees in connection with this response.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

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Kevin G. Shao  
Attorney for Applicant  
Reg. No. 45,095  
kevin\_shao@bstz.com

12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, California 90025-1026  
(408) 720-8300